

Appln. No. 10/551,692
Response dated November 14, 2007
Reply to Office action of May 21, 2007

REMARKS

The Office Action and the cited and applied references have been carefully reviewed. No claim is allowed. Claims 21 and 22 presently appear in this application and define patentable subject matter warranting their allowance. Reconsideration and allowance are hereby respectfully solicited.

Nonelected and withdrawn claims 8, 9 and 12-20 are cancelled without prejudice to the filing of a divisional application(s) thereon. Claims 1-7, 10 and 11 are also cancelled without prejudice to filing a continuation application thereon.

Claims 1-7, 10 and 11 have been rejected under 35 U.S.C. §112, first paragraph, because the examiner takes the position that the specification, while being enabling for SEQ ID NOs: 32-35 and 38-39 and a composition thereof as immunological adjuvant for the induction of antibodies, does not reasonably provide enablement for the polypeptides as claimed in claims 1-7 and 10-11. While applicants do not concede to the examiner's position, this rejection is made moot by the cancellation of the rejected claims for purposes of business strategy. New claims 21 and 22 are now directed to a polypeptide comprising the amino acid sequence of SEQ ID NO:32, 33 or 39, which are considered enabled by the examiner.

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Reconsideration and withdrawal of the rejection are therefore respectfully requested.

Claims 1-7, 10 and 11 have been rejected under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. The examiner states that applicant is in possession of the polypeptide of SEQ ID NO:32-35 and 38-39 and a composition thereof. This rejection is also made moot by the cancellation of the rejected claims for purposes of business strategy. New claims 21 and 22 are now directed to a polypeptide comprising the amino acid sequence of SEQ ID NO:32, 33 or 39, which are considered adequately described by the examiner.

Reconsideration and withdrawal of the rejection are therefore respectfully requested.

Claims 1, 3-6 and 10-11 have rejected under 35 U.S.C. §103(a) as being unpatentable over French publication 2,716,926 (1998) in view of Okada et al., *Cancer Res.* 61:7913-7919 (2001) and claims 2 and 7 are also rejected over the same references and further in view of Oishi et al. (2001). Both §103(a) obviousness rejections are obviated by the cancellation of the rejected claims.

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New claims 21 and 22 are not subject to these two rejections because they recite for a polypeptide comprising the amino acid sequence of SEQ ID NO:32, 33 or 39, which sequences are not disclosed or taught in any of the cited and applied references.

Reconsideration and withdrawal of the rejection are therefore respectfully requested.

In view of the above, the claims comply with 35 U.S.C. §112 and define patentable subject matter warranting their allowance. Favorable consideration and early allowance are earnestly urged.

Respectfully submitted,

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